



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

SECNAVINST 5430.25F
OGC
26 Mar 2019

SECNAV INSTRUCTION 5430.25F

From: Secretary of the Navy

Subj: THE GENERAL COUNSEL OF THE NAVY; ASSIGNMENT OF
RESPONSIBILITIES

Ref: (a) 10 U.S.C.
(b) SECNAVINST 5430.7R
(c) SECNAVINST 5430.27D
(d) SECNAVINST 5820.4G

Encl: (1) Responsibilities
(2) Organization

1. Purpose. Section 8019 of reference (a) establishes the presidentially appointed, Senate-confirmed position of the General Counsel (GC) of the Department of the Navy (DON), and provides that the GC shall perform such functions as the Secretary of the Navy (SECNAV) may prescribe. This instruction, in addition to reference (b), assigns and defines these functions.

2. Cancellation. SECNAVINST 5430.25E.

3. Applicability. This instruction applies to the Office of the SECNAV, the Chief of Naval Operations (CNO), the Commandant of the Marine Corps (CMC), and all U.S. Navy and U.S. Marine Corps installations, commands, activities, field offices, and all other organizational entities within the DON.

4. Policy. The GC is the principal legal advisor to the SECNAV and the chief legal officer of the DON.

a. As the principal legal advisor, the GC provides legal advice and counsel to the SECNAV, the Under Secretary of the Navy (UNSECNAV), the civilian executive assistants, the staff assistants, and their respective staffs (see reference (b)) on any matter or issue they may direct to the GC. Additionally,

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the GC may volunteer advice and counsel to these same officials on any matter that the GC determines should be brought to their attention.

b. The legal opinions of the GC, as the chief legal officer of the DON, are the controlling legal opinions within the DON.

c. In accordance with sections 8046 and 8088 of reference (a), and reference (c), no officer or employee of the Department of Defense, including the GC, may interfere with the ability of the Judge Advocate General of the Navy (JAG) to give independent legal advice to the SECNAV or the CNO, or of the Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC) to give independent legal advice to the SECNAV or CMC.

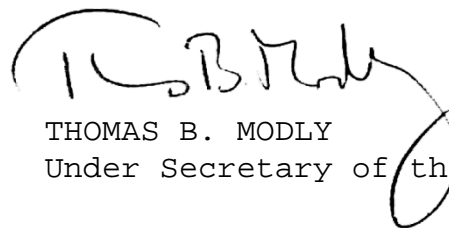
5. Responsibilities. See enclosure (1).

6. Organization. See enclosure (2).

7. Acquisition of Outside Legal Services. Except when obtained pursuant to section 1037 of reference (a) and reference (d), legal services within or relating to the DON shall not be obtained by any source outside the DON without the concurrence and the assistance, as appropriate, of the GC.

8. Records Management. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned according to the records disposition schedules found on the Directives and Records Management Division (DRMD) portal page:

<https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/SitePages/Home.aspx>



THOMAS B. MODLY
Under Secretary of the Navy

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RESPONSIBILITIES

1. Head of the Office of the General Counsel (OGC). The GC is the Head of the OGC whose duties shall include:

a. Providing, or supervising the OGC's provision of, legal advice and services to the SECNAV, the UNSECNAV, the civilian executive assistants, and the staff assistants on all matters affecting the DON;

b. Providing, or supervising the OGC's provision of, legal services in subordinate commands, organizations, and activities in the following areas: acquisition law, including international transactions, acquisition-related security cooperation matters, and acquisition integrity; arms control and international arms regulation; business and commercial law; real and personal property law; civilian personnel and labor law; fiscal law; environmental law; occupational safety and health law; intellectual property law; intelligence and national security law; law pertaining to cyberspace; ethics and standards of conduct; Freedom of Information Act and Privacy Act law; legislation; and such other legal services as may be assigned to support the mission of the Navy and the Marine Corps, or the discharge of the GC's responsibilities as described in this instruction;

c. Conducting litigation involving the areas enumerated above, overseeing all litigation affecting the DON, and serving as the SECNAV's sole delegate to accept service of process on the DON;

d. Acting as liaison with the DoD GC in matters of mutual concern;

e. Coordinating with the Department of Justice (DOJ), as appropriate;

f. In coordination with the JAG and the SJA to CMC, providing legal advice regarding intelligence activities, intelligence-related activities, special access programs, and sensitive activities within the DON to help ensure that they are conducted in a legal manner, and referring reports of questionable intelligence activities and significant or highly sensitive matters conducted by or on behalf of DON components to the Naval Inspector General, Deputy Naval Inspector General for

Marine Corps Matters/Inspector General of the Marine Corps, or Director, Naval Criminal Investigative Service (NCIS), as appropriate, for investigation. The GC shall discharge these responsibilities, in part, as a principal member of the Senior Review Board and by designating the Principal Deputy General Counsel (PDGC) as a member of the Sensitive Activities Oversight Committee; the Assistant General Counsel (Research, Development and Acquisition) as a member of the Special Programs Review Group; and the Assistant General Counsel (Intelligence) as a member of the Sensitive Activities Review Group; and

g. Serving as the qualifying authority for all DON civilian attorneys, and exercising position classification and management authority.

2. Program Responsibilities. The GC has the following program responsibilities:

a. Serving as the Designated Agency Ethics Official for the DON;

b. Overseeing the DON Acquisition Integrity Program;

c. Managing the DON Alternative Dispute Resolution Program;

d. Advising and assisting the UNSECNAV regarding the oversight of the NCIS;

e. Advising the UNSECNAV regarding the oversight of all DON intelligence activities (including foreign intelligence and counterintelligence), intelligence-related activities, special access programs, sensitive activities, and alternative compensatory control measures; and

f. Advising and assisting the UNSECNAV in the oversight of all DON law enforcement and related investigative activities, including criminal and administrative investigations.

3. Liaison with the JAG and the SJA to CMC

a. The GC will maintain a close working relationship with the JAG and the SJA to CMC on all matters of common interest. The JAG and the SJA to CMC will inform the GC of the status of litigation in the federal courts involving matters of common

interest or shared responsibility, including recommendations to DOJ presenting a DON position regarding appeal.

b. Nothing in this instruction is intended to interfere with the ability of the JAG to give independent legal advice to the SECNAV or the CNO, or of the SJA to CMC to give independent legal advice to the SECNAV or the CMC on any matter that they determine should be brought to their attention.

4. Other Duties. The GC shall perform such other duties as the SECNAV may direct.

ORGANIZATION

OGC Offices and Organizational Structure. OGC is organized as follows:

1. For the Marine Corps and each Navy organizational activity supported by the OGC, there shall be an Office of Counsel responsible for providing all of the legal services that the GC provides in accordance with this instruction. Each such Office of Counsel shall be headed by an Assistant General Counsel or Counsel, who shall be selected by the GC with the concurrence of the CNO, CMC, civilian executive assistant or staff assistant, or the head of the Navy activity concerned. The OGC comprises the following:

a. The Central Office, which is organizationally within the Office of the SECNAV. The Central Office consists of the GC, the PDGC, the Deputy General Counsel, the Associate General Counsel (Litigation), the Assistant General Counsel (Ethics), the Assistant General Counsel (Acquisition Integrity), the Assistant General Counsel (Intelligence), the Assistant General Counsel (Alternative Dispute Resolution), and the attorneys and staff assigned to those offices;

b. The Assistant General Counsels who provide advice and legal services to the Assistant Secretaries of the Navy;

c. Counsels who provide advice and legal services to the staff assistants to the SECNAV;

d. Counsels to the Naval Air Systems Command, the Naval Facilities Engineering Command, the Naval Sea Systems Command, the Naval Supply Systems Command, and the Space and Naval Warfare Systems Command;

e. Counsel for the CMC;

f. Counsels to the CNO and the Commanders, U.S. Fleet Forces Command; U.S. Pacific Fleet; U.S. Naval Forces Europe-Africa, U.S. Sixth Fleet; and Naval Special Warfare Command;

g. Counsel to Strategic Systems Programs;

h. Counsel to the Navy Installations Command;

i. Counsel and Deputy Counsel to the Chief of Naval Research. The Deputy Counsel is also the Intellectual Property Counsel of the Navy;

j. Counsel to Military Sealift Command; and

k. Counsels to Navy and Marine Corps activities and such branch or regional offices that have been or may hereafter be established when it is mutually agreed between the GC and the head of that activity that such legal services are required.

2. In addition to reporting directly to the GC, and via the GC to the SECNAV, such counsel shall be organizationally aligned with and have direct access to the CNO, the CMC, civilian executive assistant, or staff assistant, or the head of such Navy activity, as applicable.

3. The GC supervises all attorneys within the OGC, which includes the authority to appoint, assign, promote, evaluate the performance of, and remove attorneys in the OGC.

4. The GC shall prepare and review, or assign responsibility for the preparation and review of, performance rating reports for all OGC attorneys. In preparing such performance reports, the GC or the GC's designee will seek input from the client organization to which the attorney is assigned, where applicable.

5. All personnel actions involving OGC attorneys, such as changes in grade, transfers, or terminations of services, and the establishment, revision, or elimination of position descriptions, shall be subject to the approval of the GC.

6. Budgeting, billets, personnel services, and other administrative support for OGC personnel shall be the responsibility of the command/activity to which those personnel are assigned.

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7. The legal services to be rendered by all OGC attorneys shall be coordinated and supervised by the GC. The GC shall also be responsible for maintaining uniformity in the application of legal principles with regard to the matters assigned to the GC by this instruction. In executing this responsibility, the GC shall provide training and professional development opportunities to attorneys within the OGC.